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09/994,313	11/26/2001	King F. Choi	82601DMW	2606

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EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,313

Applicant(s)

CHOI, KING F.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Fig. 5, item 128. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9, 12-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 4 refers to making a measurement "external to the client." Examiner is unsure whether this is a physical measurement outside the client hardware or a measurement of another computer connected to but not part of the client or some other hereto undisclosed measurement.

5. Claim 5 refers to making a measurement of the client computer. Examiner is unsure whether this is a physical measurement of the size of the client computer, a measurement of the performance of the client computer, or some other hereto undisclosed measurement.

6. Claims 6, 7 refer to a cookie storage. Examiner is unclear where the cookies are being stored, whether this may involve a computer storage medium on the client, memory, or an external physical

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storage of the cookie. Examiner treats cookie storage as a file or a cookie file that is saved on a computer readable medium.

7. Claims 8, 13 refer to a limited access file. Examiner is unsure what Applicant means by limited access or how limited the access is. For purposes of compact prosecution Examiner treats "limited access file" as a cookie.

8. Claims 1-7, 12-20 refers to a device or an external device that is operated. The breadth of this claim is indefinite, especially considering the numerous amounts of external peripheral devices well known in the art that can be connected and operated by a computer, including printers, web cameras, scanners, fax machines, etc. Examiner is unsure what type of device or external device is being claimed as being part of the invention.

9. The term "previously gathered data" in claim 16 is a relative term which renders the claim indefinite. The term "previously" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Examiner is unsure at what point in the operation of the invention the data is considered previously gathered. Examiner is also unsure what type of data is being claimed as being gathered. For purposes of compact prosecution, Examiner will treat previously gathered data as data gathered before sending it back to the server.

10. Claims 16 and 20 refer to sending data to "another computer." The current wording leads Examiner to interpret Applicant as sending data to a computer that is not the server. This computer that is not the server is not mentioned in the specification or claimed subject matter until these claims. The limits of another computer could be another device with computing ability (such as a microwave, calculator or digital watch), another client device connected to the server, another server, a remote computer connected to the client over the Internet, or another hereto previously unnamed computer. For purposes of compact prosecution Examiner will treat this as sending data back to the server.

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Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 10-11 rejected under 35 U.S.C. 102(e) as being anticipated by Kraft et al. (U.S. Patent No. 6,832,239).

13. Regarding claims 10-11, Kraft discloses downloading an applet, executing the applet, the applet receiving data and storing it in memory, and executing a file download based upon the applet and received data (*performing an operation*). [See Kraft, column 2, line 66 – column 3, line 10.] By this rationale claims 10-11 are rejected.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-2, 8-9, 12, 21-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Montulli (U.S. Patent No. 5,774,670) and Cochran et al. (U.S. Patent No. 6,529,938).

16. Regarding claim 1, Cochran discloses a server transmitting information to a client in order to perform a requested operation. [See Cochran, Abstract. See Cochran, column 2, lines 1-7.] Cochran fails to disclose that the command is transmitted to the client via a cookie.

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17. However, Montulli discloses that a cookie can be transmitted from a server to a client containing information. [See Montulli, column 7, lines 12-27.]

18. It would be obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Montulli and Cochran for the purpose of sending information to the client from the server that can be stored. [See Montulli, column 2, lines 15-17.] Cochran gives motivation for the combination by stating there are many ways the server can communicate commands and operations to the client. [See Cochran, column 8, lines 5-7.] By this rationale claim 1 is rejected.

19. Regarding claim 2, Cochran and Montulli are applied as in claim 1. Cochran further discloses that the client notifies the server when the client has completed the requested action. [See Cochran, column 1, lines 58-61.] By this rationale claim 2 is rejected.

20. Regarding claims 8-9, the limitations of these claims are substantially the same as the limitations of claim 1. Examiner considers a limited access file with data loaded from a remote location to be equivalent to downloading a cookie from a server. Therefore the rationale used to reject claim 1 is equally applicable to rejecting claims 8-9. By this rationale claims 8-9 are rejected.

21. Regarding claim 12, the limitations of this claim are substantially the same as the limitations of claim 1. Examiner considers controlling the device via the client through the cookie to be equivalent to a client executing a command in a cookie file. Therefore the rationale used to reject claim 1 is equally applicable to rejecting claim 12. By this rationale claim 12 is rejected.

22. Regarding claim 21, the limitations of this claim are substantially the same as the limitations of claim 1. Therefore the rationale used to reject claim 1 is equally applicable to rejecting claim 21. By this rationale claim 21 is rejected.

23. Regarding claim 22, the limitations of this claim are substantially the same as the limitations of claim 1. Therefore the rationale used to reject claim 1 is equally applicable to rejecting claim 22. By this rationale claim 22 is rejected.

24. Claims 3-7, 13-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Montulli and Cochran as applied to claim 2 above, and further in view of MacKinnon et al. (U.S. Pub. No. 2002/0012461).

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25. Regarding claim 3, Montulli and Cochran are applied as in claim 2. Montulli and Cochran fail to disclose that the client via a device interface agent is controlling a separate device.

26. However, MacKinnon discloses controlling devices for digital imaging by use of a cookie.

[MacKinnon discloses transmitting software over the Internet that will color correct images for digital display. See MacKinnon, paragraph 0069. The transmitted file may be associated with a cookie. See MacKinnon, paragraph 0070.]

27. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of MacKinnon with the teachings of Cochran and Montulli for the purpose of accurately displaying an image and collecting measurements for modifying and displaying the digital image. [See MacKinnon, paragraphs 0015-0016.] Cochran gives motivation for the combination by stating that a client can perform operations requested by a server regardless of how they are communicated. [See Cochran, column 8, lines 1-13.] By this rationale **claim 3** is rejected.

28. Regarding claim 4, Montulli, Cochran, and MacKinnon are applied as in claim 3. MacKinnon further discloses a device making a measurement external to the client. [See MacKinnon, page 10, paragraph 0111.] By this rationale **claim 4** is rejected.

29. Regarding claim 5, Montulli, Cochran, and MacKinnon are applied as in claim 3. MacKinnon further disclose a device that measures the client computer. [MacKinnon measures the display of the client computer. See MacKinnon, page 7, paragraph 0074.] By this rationale claim 5 is rejected.

30. Regarding claim 6, the limitations of this claim are substantially the same as the limitations for claim 3. Therefore the rationale for rejecting claim 3 is equally applicable to claim 6. By this rationale claim 6 is rejected.

31. Regarding claim 7, the limitations of this claim are substantially the same as the limitations for claim 3. Montulli and Cochran are applied as in claim 3. Montulli and Cochran fail to disclose a display device showing color patches and a device taking a color measurement.

32. However, MacKinnon discloses calibrating a display device and measuring the device's color output. [See MacKinnon, Figure 6, items 602, 604, 628. See MacKinnon, page 5, paragraph 0061. See MacKinnon, page 7, paragraphs 0074-0075. See MacKinnon, page 7, paragraphs 0079-0080.]

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33. The motivation for this combination is the same motivation as applied in claim 3. By this rationale claim 7 is rejected.

34. Regarding claim 13, the limitations of this claim are substantially the same as the limitations for claim 3. Therefore the rationale for rejecting claim 3 is equally applicable to claim 13. By this rationale claim 13 is rejected.

35. Regarding claims 14-15, the limitations of these claims are substantially the same as the limitations for claim 4. Therefore the rationale for rejecting claim 4 is equally applicable to claims 14-15. By this rationale claims 14-15 are rejected.

36. Regarding claim 16, Montulli, Cochran, and MacKinnon are applied as in claim 13. Montulli further discloses sending data to another computer. [See Montulli, Abstract. See Montulli, column 2, lines 34-35.] By this rationale claim 16 is rejected.

37. Claims 17-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Montulli, Cochran, and MacKinnon as applied to claim 13 above, and further in view of Kraft.

38. Regarding claim 17, Montulli, Cochran, and MacKinnon are applied as in claim 13. Montulli, Cochran, and MacKinnon fail to disclose the use of an applet.

39. However, Kraft discloses using an applet to transmit and store data. [See Kraft, column 2, line 66 – column 3, line 10.]

40. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Montulli, Cochran and MacKinnon with the teachings of Kraft for the purpose of providing feedback between the client and server. [See Kraft, column 2, lines 13-17.] Cochran gives motivation for this combination by stating that a client can perform operations requested by a server regardless of how they are communicated. [See Cochran, column 8, lines 1-13.] By this rationale claim 17 is rejected.

41. Regarding claim 18, Montulli, Cochran, MacKinnon, and Kraft are applied as in claim 17. MacKinnon further discloses a device making a measurement external to the client. [See MacKinnon, page 10, paragraph 0111.] By this rationale **claim 18** is rejected.

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42. Regarding claim 19, Montulli, Cochran, MacKinnon, and Kraft are applied as in claim 18. Upon applying the previous claims and the specification, it is clear to the Examiner that the applet is commanding the device to gather data through the device agent. Therefore it would be inherent that communicating gathered data to the applet would likewise be done through the device agent. By this rationale claim 19 is rejected.

43. Regarding claim 20, Montulli, Cochran, MacKinnon, and Kraft are applied as in claim 19. Examiner takes Official Notice that an applet can send data to another computer. Applets are well known in the art and have the ability to transmit data when so written. By this rationale claim 20 is rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on (571) 272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS

Jack Harvey
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